

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 26<sup>TH</sup> DAY OF FEBRUARY 2007, AT 6:45 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Steve L. Spradlin	-Chair
	Mary W. Biggs	-Vice Chair
	Gary D. Creed	-Supervisors
	Doug Marrs	
	John A. Muffo	
	Annette S. Perkins (Arrived at 6:50 p.m.)	
	James D. Politis	
	B. Clayton Goodman, III	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	T.C. Powers	-Planning Director
	Vickie L. Swinney	-Secretary, Board of Supervisors

### **CALL TO ORDER**

The Chair called the meeting to order.

### **ADD TO THE AGENDA - ADDENDUM**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously, the following addendum dated February 26, 2007 was added to the agenda under Closed Meeting:

- Section 2.2-3711                      (3)      Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body
1.   Elliston/Lafayette Elementary School Site

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Doug Marrs	None	Annette S. Perkins
Mary W. Biggs		
James D. Politis		
John A. Muffo		
Gary D. Creed		
Steve L. Spradlin		

### **INTO CLOSED MEETING**

On a motion by James D. Politis, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711                      (1)      Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
1. Parks & Recreation Commission

- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body

1. Elliston/Lafayette Elementary School Site

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
John A. Muffo	None	Annette S. Perkins
James D. Politis		
Mary W. Biggs		
Doug Marrs		
Gary D. Creed		
Steve L. Spradlin		

**Supervisor Perkins arrived at 6:50 p.m.**

**OUT OF CLOSED MEETING**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
Annette S. Perkins	
Mary W. Biggs	
Doug Marrs	
Gary D. Creed	
John A. Muffo	
Steve L. Spradlin	

**CERTIFICATION OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

## VOTE

### AYES

Annette S. Perkins  
Mary W. Biggs  
Doug Marrs  
Gary D. Creed  
John A. Muffo  
James D. Politis  
Steve L. Spradlin

### NAYS

None

### ABSENT DURING VOTE

None

### ABSENT DURING MEETING

None

## PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

## PUBLIC HEARINGS

### Rezoning Request – Stuart E. White and Chad and Lisa Vaught

**Stuart E. White and Chad and Lisa Vaught (Agent: Balzer and Associates) request to rezone approximately 17.6 acres from Residential (R-2) and Agriculture (A-1) to Residential Multi-Family (RM-1), with possible proffered conditions, to allow seventy (70) townhomes for single-family attached residential use.** The property is located on the north side of Peppers Ferry Road (Rte. 114), across from Belview Elementary School and is identified as Tax Parcel Nos. 64- A 42, 64- A 41E, and 64A-42A (Acct # 017168, 026241, and 026238) in the Prices Fork Magisterial District (District E). The property currently lies in an area designated partially as Village Core and remainder as Village Expansion in the Comprehensive Plan.

The Planning Director provided a brief summary of the above request. The applicants are requesting rezoning on two separate lots to Residential Multi-Family to allow 70 townhomes. These units would be affordable housing constructed under the VHDA Tax Credit program, which encourages developers to build more affordable and better quality low-income housing. The location of higher density residential development within the Belview Village/Village Expansion Area is supported by the Comprehensive Plan. The site is in a village area that is predominately medium sized residential lots and businesses and is expected to become more residential over time.

The proposed site consists of two lots, the upper lot has an existing mobile home park with 14 mobile home units and was rezoned in the year 2000 in anticipation of developing a 13-lot duplex subdivision ( 26 units). Therefore, the request will be a net increase of 30 units.

The applicant has submitted 17 proffers including the pledging of \$35,000 for future improvements directly associated with the subject property, which was determined during the development of the Belview Village Plan and alternate road improvements to Peppers Ferry Road to address traffic impacts due to the development.

At their February 14, 2007 meeting, the Planning Commission recommended approval of the request.

The Planning Director announced the Board of Supervisors will be taking action on this request at a special meeting on March 5, 2007.

Nick Rush, representing Unlimited Construction, provided a brief summary of the proposed development. The request is to rezone 17 acres, with the developed area on 7 acres and the remainder 10 acres left as open space to help minimize the impact to the area. They are offering a

cash proffer of \$35,000 to help with future improvements within the Belview Village area as an act of good faith. Mr. Rush also addressed the concerns of residents in the trailer park regarding the relocation of the residents. He reported that funding has been included in their budget to help move trailers that are 1976 models or newer to another park owned by Mr. Vaught.

Steve Semones, Balzar & Associates, address the Board on the proposed development particularly with the stormwater development and traffic access to the development. Mr. Semones reported they have worked with the County Engineer's Office regarding stormwater management and are working with the adjoining property owner to develop a regional stormwater detention pond. They have also worked with VDOT regarding the access to the development and the need for turn lanes and a right turn taper. Mr. Semones also stated that the development is to create more affordable housing in the County; therefore, he believes this development will relocate people in the County, not bring new people in.

Tony Linkous lives in the Belview Community and has concerns with the proposed development. Mr. Linkous expressed concerns with safety issues regarding excessive traffic on Peppers Ferry Road ( Rt. 114). He also expressed concerns with the stormwater management plan. The proposed development will cause much of the water to be diverted and released on to an existing flood plane and/or creek that is upstream and flows onto his property. He asked that the Board require the applicants to install larger sized pipes to handle the additional water flow under the entrance to his property. Mr. Rakes acknowledged that development will soon come to the Belview Community and if done properly could benefit all. He asked the Board to postpone large projects such as Forest Hills until most of the problems that come with the development are thoroughly addressed.

Bonnie Gillispie, spoke in opposition to the proposed development. Ms. Gillispie stated her property is in front of the Belview Elementary School and the proposed turn lanes will be in her front yard. She expressed concerns with the existing traffic problems on Peppers Ferry Road and the proposed development will make them worse. Ms. Gillispie stated the Board of Supervisors denied a rezoning in years past for the expansion of the trailer park due to the traffic issues. She also stated that she sold a parcel of the land that is part of the rezoning to Mr. Stuart, who agreed to upgrade the existing road leading into her property in return, this is stated on the deed. To date no upgrades have been done.

Steve Brunk and Valerie Brunk expressed concerns with the residents who own mobile homes older than 1976 models. What are they going to do? The applicant reported that they have funding to help the residents re-locate their trailers to another park. There are only three (3) trailers in the park that are 1976 models and newer. The remaining residents do not have the money to re-locate.

Laura Helms addressed the Board in opposition to the proposed development. Ms. Helms expressed numerous concerns related to the development as follows:

- Enough Affordable Housing – there are 6 mobile home parks located on Peppers Ferry Road.
- The proposed rent is less than the Massie Trailer Home Park.
- The development will bring more crime and drugs
- Traffic Issues
- The Board denied a rezoning for the expansion of the trailer park years ago.
- There is not adequate parking at the Belview Elementary School. Parents have to park along the road during after school events, creating safety issues.

Ms. Helms urged the Board to leave this area rural and to take their time to review the rezoning request.

The Board of Supervisors at this time discussed the proposed development and asked for clarification on several issues. Supervisor Marrs asked why no turn lanes were being proposed as you come from Christiansburg towards Radford. Mr. Semones replied that there would be no benefit for the motorist due to the fact they have to wait until traffic is clear on the opposite side of the road in order to turn. Supervisor Marrs also expressed concern with the emergency access road being right in front of the school, which is a safety concern. Mr. Rush replied that this access is already an existing road. The development would not impact this access. He also reported that the road could become a public road if the property owner decides to develop in the future.

Concerns regarding the traffic and speed limit on Peppers Ferry Road were addressed. Supervisor Biggs stated the current speed limit of 55 mph. is not safe. Could the speed limit be lowered during the construction of the development? Supervisor Creed asked if a temporary reduction of speed was possible? Staff was instructed to contact VDOT about the possibility of reducing the speed limit along the corridor, and if not feasible, then a temporary reduction during construction of the townhomes. Mr. Rush agreed to support the Board's action to lower the speed limit. He also stated that the development plan is to have only one access to the development, proposed to the existing 3 accesses now.

The Board also asked about the density of the development and what could be done by right. Mr. Rush replied that the applicant can by right construct 74 duplex units. The Planning Director confirmed that the applicant can in theory have 74 units by right.

There being no further speakers, the public hearing was closed.

#### Proposed Ordinance Amending Chapter 7, Section 7-6

#### **Ordinance Amending Chapter 7, Section 7-6 of the Montgomery County Code Entitled Physical Contact With Members of Opposite Sex at Massage Parlors By Adding Licensed Massage Therapist To The List of Professions That Are Exempt Under the Provision.**

The County Attorney provided a brief explanation of the amendment to the County Code, Chapter 7, Section 7-6.

There being no speakers the public hearing was closed.

#### **PUBLIC ADDRESS**

Shireen Parsons addressed the Board on the proposed ordinance submitted by the Citizens for the Preservation for Our Countryside. Ms. Parsons stated if the Board of Supervisors does not adopted this ordinance banning private corporations from the use of eminent domain, then the proposed intermodal site would be located in Montgomery County. This facility will affect all of Montgomery County and adjoining counties, not just the eastern portion of Montgomery County. Ms. Parsons stated the proposed ordinance is legal by law and urged the Board to adopt the ordinance.

Richard Rittenhouse addressed the Board on the proposed ordinance submitted by the Citizens for the Preservation for Our Countryside. Mr. Rittenhouse believes without the adoption of this ordinance Montgomery County will not have any other tools to stop the intermodal site from being built in the County. He stated the Community Environmental Legal Defense Fund would assist Montgomery County in this effort to get the NS Intermodal Facility stopped.

Rosemary Sowden addressed the Board with concerns about the proposed NS Intermodal Facility. She believes this facility does not belong in the community as it will destroy the quality of life for the citizens of Montgomery County and pollute the Roanoke River. She asked the Board to consider adopting the ordinance submitted by the Citizens for the Preservation for Our Countryside.

Mickey Apgar addressed the Board about concerns with the proposed NS Intermodal Facility. Mr. Apgar stated the proposed facility will be in his front yard. He believes this facility will degrade his property. He believes that Norfolk Southern can only be stopped by banning them from using eminent domain.

There being no further speakers, the public address session was closed.

#### **CONSENT AGENDA**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously, the Consent Agenda dated February 26, 2007 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
Gary D. Creed	
John A. Muffo	
James D. Politis	
Annette S. Perkins	
Steve L. Spradlin	

**Approval of Minutes**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously, the minutes dated November 26, 2006 and December 4, 2006 were approved.

**A-FY-07-85  
HUMAN SERVICES  
COMPREHENSIVE SERVICES GRANT**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Montgomery County Board of Supervisors that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007 for the function and in the amount as follows:

511	Comprehensive Services	
	Innovative Community Services Grant	\$100,239

The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
05111-424401 State Grants	\$100,239

Said resolution appropriates the Comprehensive Services Innovative Community Services Grant.

**A-FY-07-86  
SHERIFF'S DEPARTMENT  
RECOVERED COSTS**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007, for the function and in the amount as follows:

320	Sheriff – County	\$3,834
321	Sheriff – Grants	<u>\$ 150</u>
	Total	\$3,984

The sources of the funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>		
419108	Recovered Costs	\$3,834
424401	Project Lifesaver	<u>150</u>
	Total	\$3,984

Said resolution appropriates recovered costs and project lifesaver funds for use by the Sheriff's Department.

**R-FY-07-129**  
**REVISED PEDESTRIAN ACCESS EASEMENT**  
**CLOVERLEA SUBDIVISION PHASE I**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, The Plat Showing Revised Pedestrian Access Easements Over Various Lots at Cloverlea, Phase I requests the vacation and dedication of pedestrian access easements on behalf of the landowners, Fralin & Waldron, Inc.; James & Linda Evans; and Raymond & Norma Powell, and

WHEREAS, Section 15.2-2270 of the Code of Virginia, as amended, permits the Board of Supervisors to vacate public easements upon request of the landowners involved.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby approve the Plat Showing Revised Pedestrian Access Easements Over Various Lots at Cloverlea, Phase I prepared by Gay & Neel, Inc. (Job No. 1162.4 dated November 21, 2006), involving Tax Parcels No. 119-9-65 (Acct ID# 110759); 119-9-64 (Acct ID# 110758); 119-9-63 (Acct ID# 110757); 119-9-62 (Acct ID# 110756); 119-9-B (Acct ID# 110769); and 119-9-42 (Acct ID# 110736) in the Riner Magisterial District.

FURTHER, The Subdivision Agent is hereby authorized to sign said plat and related deed of vacation for recordation.

**R-FY-07-130**  
**FINAL PLAT**  
**THE RIDGES SUBDIVISION PHASE 6**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, The Ridges Subdivision Phase 6 consists of 8 lots located off North Fork Road (SR 603) and has been found to meet the requirements of the Montgomery County Code Chapter 8, Article IV (Subdivision Ordinance).

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby approve the Final Plat of The Ridges Subdivision Phase 6 (John D. Abbott Job No. 06014CN dated 02/03/06 and revised 01/02/07).

FURTHER, The Subdivision Agent and County Engineer are hereby authorized to sign said subdivision plat for recordation.

**R-FY-07-131**  
**INDUSTRIAL DEVELOPMENT AUTHORITY**  
**APPOINTMENT**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Todd Murray** to the Industrial Development Authority effective February 27, 2007 and expiring February 26, 2011.

**R-FY-07-132**  
**INDUSTRIAL DEVELOPMENT AUTHORITY**  
**APPOINTMENT**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Allan M. Bookout** to the Industrial Development Authority effective February 27, 2007 and expiring February 26, 2011.

**R-FY-07-133**  
**TRANSPORTATION SAFETY COMMISSION**  
**APPOINTMENT**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, By resolutions dated February 12, 2007 the Board of Supervisors reappointed Walter W. Viohl, Jr. as the Virginia State Police representative to the Transportation Safety Commission, and reappointed Danny G. Dean as the Division of Motor Vehicles representative to the Transportation Safety Commission; and

WHEREAS, The County Administrator has learned that Walter W. Viohl, Jr. has retired from the Virginia State Police, which makes him ineligible to serve on the Transportation Safety Commission as representative of the Virginia State Police; and

WHEREAS, The County Administrator has learned that Danny G. Dean has retired from the Division of Motor Vehicles, which makes him ineligible to serve on the Transportation Safety Commission as representative of the Division of Motor Vehicles.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby rescinds the prior reappointment of Walter W. Viohl, Jr. because his retirement from the Virginia State Police makes him ineligible for reappointment, and instead appoints **1<sup>st</sup> Sergeant D. Frank Parries** as the **Virginia State Police** representative to the **Transportation Safety Commission** effective February 27, 2007 and expiring February 26, 2010.

BE IT FURTHER RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby rescinds the previous reappointment of Danny G. Dean because his retirement from the Division of Motor Vehicles makes him ineligible for reappointment, and instead appoints **Monty Mills** as the **Division of Motor Vehicles** representative to the **Transportation Safety Commission** effective February 27, 2007 and expiring February 26, 2010.

**OLD BUSINESS**

**R-FY-07-134**  
**PRIVATE UTILITY EASEMENT TO**  
**CREEK PROPERTIES, LLC AND**  
**STORM WATER SEWER EASEMENT TO**  
**TOWN OF CHRISTIANSBURG**

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board hereby grants the following utility easements:

- (1) A twenty foot Storm Water Sewer Easement and existing storm sewer to the Town of Christiansburg, located on County of Montgomery property designated as Tax Map Parcels 527-A-240, 527-A-229, adjacent to Roanoke Street in the Town of Christiansburg, Virginia.
- (2) A twenty foot private easement to Creek Properties, LLC, in order to locate a private storm sewer, located on County of Montgomery property designated as Tax Map 527-A-235C, in the Town of Christiansburg, Virginia.



BE IT FURTHER RESOLVED, That the Board of Supervisors hereby authorizes Steve Spradlin, Chair, to sign the easement on behalf of the County.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
John A. Muffo	
James D. Politis	
Annette S. Perkins	
Mary W. Biggs	
Doug Marrs	
Steve L. Spradlin	

## **NEW BUSINESS**

### **A-FY-07-87 GENERAL DISTRICT COURT**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2007, for the function and in the amount as follows:

220	General District Court	\$4,015
-----	------------------------	---------

The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
02- 451203	Undesignated Fund Balance	\$4,015

Said resolution appropriates fund balance to cover the cost of office furniture and filing system for the General District Courts.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
James D. Politis	
Annette S. Perkins	
Mary W. Biggs	
Doug Marrs	
Gary D. Creed	
Steve L. Spradlin	

### **R-FY-07-135 MT. ZION ROAD (SR 655) REQUEST TO LOWER SPEED LIMIT**

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, In June 2005 the County Administrator received a petition with 62 signatures requesting that a speed study be conducted on Mt. Zion Road (SR 655) from Glade/Brooksfield Road to Lick Run Road, a distance of 2.2 miles; and

WHEREAS, In July 2005 the petition was forwarded to the Virginia Department of Transportation (VDoT) along with a request from the County Administrator that a speed study be conducted on Mt. Zion Road; and

WHEREAS, Following a speed study conducted by their Traffic and Safety Division, VDoT advised they did not recommend reducing the speed limit at that time; and

WHEREAS, Mt. Zion Road is a roadway that is consistent with that of Merrimac Road (SR 657) which has a posted speed limit of 35 mph.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia respectfully requests the Virginia Department of Transportation to reduce the speed limit to 35 mph on Mt. Zion Road (SR 655) from Glade/Brooksfield Road (SR 654) to Lick Run Road (SR 781) approximately 2.2 miles.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
Annette S. Perkins	
Mary W. Biggs	
Doug Marrs	
Gary D. Creed	
John A. Muffo	
Steve L. Spradlin	

### **INTO WORK SESSION**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. FY 2007-2008 Budget
  - a. Montgomery County Public Schools

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Annette S. Perkins	None
Mary W. Biggs	
Doug Marrs	
Gary D. Creed	
John A. Muffo	
James D. Politis	
Steve L. Spradlin	

### **Montgomery County Public Schools – Budget Presentation**

Penny Franklin, Chair, Montgomery County School Board, provided opening remarks. She thanked the Board of Supervisors for the opportunity to share the vision for the schools and discuss the School Board's budget request. Ms. Franklin reported the key areas of the School Board commitment are for all schools to be accredited, recruit highly qualified staff and provide compensation to retain and motivate staff, and to continue to build communication and collaboration.

The School Board budget request is based on the resources needed to provide a quality program of instruction to meet Federal and State standards and to meet the educational needs of all Montgomery County students. Although revenue resources are considered, the final budget request is based on needs and not restricted to funds available.

Dr. Tiffany Anderson, Superintendent, provided remarks on the School budget request. Dr. Anderson reported that the budget request includes input from parents, teachers, administrators, and community. The Budget includes the needs to meet SOQ, NCLB, and School Board priorities.

Walt Shannon, Director of Management Services for MCPS, provided a summary of major items in the budget request.

Mr. Shannon provided information on the rollover budget request, which includes an increase for health insurance (\$1.4 million) due to high claims and a 1.6% step increase based on the FY 06-07 salary scales (\$ 1.04 million).

Mr. Shannon reported the School Board is requesting a 6% division wide increase in the budget for compensation at \$3.4 million and a request for 35.74 additional positions at \$1.5 million. Budget requests for services, supplies, and equipment total \$679,970. These requests include increases for nurses' medical supplies/equipment, replacement of school buses, computer equipment, custodial and maintenance supplies, to name a few.

Mr. Shannon in conclusion stated the School Board's budget request is as follows:

Operating Budget 06-07	\$86,418,348
Rollover Budget Increase	\$ 3,039,746
Other Budget Requests	<u>\$ 5,664,208</u>
Total	\$95,122,302

Supervisor Biggs commented that the School Board did spend a large amount of time on their budget. There are real needs in the school system. The County is continuing to grow, which results in additional children in the schools and the need for more programs. The School Board also has to take into account the SOL's and lack of state funding for this requirement by the state.

### **OUT OF WORK SESSION**

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
Gary D. Creed	
John A. Muffo	
James D. Politis	
Annette S. Perkins	
Steve L. Spradlin	

### **COUNTY ATTORNEY'S REPORT**

#### **Proposed Norfolk Southern Intermodal Facility in Eastern Montgomery**

The County Attorney reported that at the Board's February 12, 2007 meeting, a community group named the Citizens for the Preservation of Our Countryside, presented an ordinance to the Board of Supervisors which would ban corporations from the use of eminent domain to acquire land for public purpose. He was directed by the Board to look into the matter and advise the Board on whether the county has the power to adopt an ordinance making it unlawful for any corporation to use its power of eminent domain to seize property.

The County Attorney explained that such an ordinance would be invalid and would be unenforceable. Based on the current Virginia state law and decisions by the State Supreme Court, the provisions of the proposed ordinance are inconsistent with and in direct conflict with the state law. The state constitution and state laws reign supreme over local ordinances. According to state law, railroads have the authorization to use the power of eminent domain to acquire private property for its use in serving the public. The state also provides a law that gives authority to other public service corporations, such as electric, telephone, and gas pipelines the

power to use eminent domain. The County Attorney stated that the state law clearly defines eminent domain.

The County Attorney suggested the Board of Supervisors request the Attorney General's opinion on the proposed ordinance submitted by the Citizens for the Preservation of Our Countryside. A response from the Attorney General's Office will take 60 – 90 days.

The Board discussed the County Attorney's opinion and Chair Spradlin asked the County Attorney what the ramifications for the county would be if the Board did adopt the proposed ordinance?

The County Attorney responded that Norfolk Southern would possibly file with the court to use its power of eminent domain and then the county would have to go to court to try to enforce the ordinance banning private corporations from the authorization to use eminent domain. Norfolk Southern could also request the county to reimburse all legal fees, which could be a financial hardship to the county. He also replied that knowing that the ordinance would be a direct defiance of state law and would be enforceable, he would have the ethical duty not to go to court and make a frivolous argument. He also stated that adopting this ordinance may hurt the Boards' image throughout the state.

The County Attorney stated that this issue lies at the state level. The Board and the residents of eastern Montgomery County can lobby the state to convince officials not to provide public funds for the proposed intermodal facility.

The Board directed the County Attorney to seek the Attorney General's opinion on the proposed ordinance and forward the response to the Board upon its receipt.

## **BOARD MEMBERS' REPORT**

**Supervisor Perkins** asked that VDOT's Residency Administrator be available at their next meeting in order to update them on road issues in Montgomery County, specifically Craig Creek Road (SR 621).

**Supervisor Muffo** attended the Luna ribbon cutting on February 22, 2007. Luna opened their R&D Laboratory consolidation in the County's Technology Manufacturing Building in the Blacksburg Industrial Park. He is very impressed with the number of high tech professionals in this facility. He stated the County is seeing high tech growth, which recruits professionals to the County and in turn creates the need for infrastructure and growth in our public schools.

**Supervisor Creed** has received numerous e-mails regarding the Elliston/Lafayette Village Plan. He believes it is time to revisit the plan and move forward in adopting it.

**Supervisor Marrs** reported a public meeting was held on February 17, 2007 on the Belview Village Plan.

**Supervisor Biggs** attended the School Board meeting and reported that 5 teachers were recognized for receiving their National Certification. She explained that this is a top honor, as receiving a national certification is very difficult to do.

**Library Board** will be holding a retreat in order to discuss funding for books/materials. Supervisors Biggs also commented the Library Director is doing an outstanding job.

**Supervisor Spradlin** also attended the Luna ribbon cutting. This expansion will create 35 new jobs in the County. Supervisor Spradlin attended the ground breaking for the Western Virginia Regional Jail on February 20, 2007.

## **ADJOURNMENT**

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously, the Board adjourned to Monday, March 5, 2007 at 8:00 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Gary D. Creed	
James D. Politis	
John A. Muffo	
Annette S. Perkins	
Mary W. Biggs	
Steve L. Spradlin	

The meeting adjourned at 9:45 p.m.

APPROVED: _____	ATTEST: _____
Steve L. Spradlin	B. Clayton Goodman, III
Chair	County Administrator